

**California Native American Tribal Engagement in the
California Water Plan Update 2013
- DRAFT Proposal -**

The *California Water Plan Update 2013* aims to deepen and expand the relationships between State agencies and California Native American Tribes built during *Update 2009*, and thereby improve the overall quality and comprehensiveness of the plan. Major successes of *Update 2009* include the release of a working draft [Tribal Communication Plan](#) to guide Water Plan agencies in ways to reach and engage tribal communities, and hosting a two-day statewide Tribal Water Summit (see the [2009 California Tribal Water Summit Proceedings](#)). This document proposes an initial plan for how *Update 2013* intends to approach its fundamental goal of increasing Tribal engagement.

As with the *California Water Plan Update 2009*, the *California Water Plan Update 2013* uses the term “**California Native American Tribe**” to signify all Indigenous Communities of California, including those that are non-federally recognized and federally recognized, and those with allotment lands, regardless of whether they own those lands. Additionally, because some water bodies and Tribal boundaries cross State borders, this term includes Indigenous Communities in Oregon, Nevada, and Arizona that are impacted by water in California.*

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* Similarly, the State of California Tribal Consultation Guidelines, Supplement to General Plan Guidelines, define the “California Native American tribe” as “a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission” (NAHC).

1. Objectives of Tribal Engagement in *Update 2013*

Tribes that participated in *Update 2009* identified complex issues that will take on-going effort and time to genuinely address. (For example, see the Recommended Actions on page 20 of the [*2009 California Tribal Water Summit Proceedings*](#).) State agencies need to continue to invite and assist California Native American Tribal governments to participate in water planning efforts and to take advantage of State funding when possible. Federal agencies need to continue to carry out their trust responsibilities, many of which overlap with State agency activities.

As noted, this activity in support of preparing Water Plan Update 2013. Published by the Department of Water Resources, the *California Water Plan* serves as the State's strategic plan for stewarding water resources. It includes a range of information and analysis that informs its recommendations and can be used by decision-makers.

The objectives of engaging California Native American Tribes in *Update 2013* include:

1. To integrate Tribal information and Tribal perspectives in the *Water Plan*, including but not limited to the Strategic Plan, Resource Management Strategies, and Regional Reports
2. To begin addressing the complex Tribal water issues identified during *Update 2009*
3. To educate large numbers of water professionals about Tribal water issues
4. To increase Tribal inclusion and engagement in water planning throughout California
5. To improve the overall quality and comprehensiveness of the plan, making it a more relevant and useful document.

2. The *Water Plan*, Tribal Sovereignty, and Consultation

The *California Water Plan* is aware that Tribes inhabit all parts of California, that they comprise at least 150 distinct governments and communities, and that each government is sovereign and speaks for itself. No aspect of the *Water Plan* involves negotiating any matters of Tribal sovereignty between Tribal and either federal or State governments.

The *California Water Plan* is not a consultation process. It neither regulates activities nor authorizes water projects. It does not require review under the California Environmental Quality Act or National Environmental Policy Act.

The *California Water Plan* does not replace consultation of State agencies or local governments with Tribes regarding situations that involve regulated activities and water projects that could impact their lands.

The relationship between the *California Water Plan* and the California Environmental Quality Act is a topic that the Tribal Advisory Committee can choose to discuss if it desires.

3. The *Update 2013 Tribal Advisory Committee*

Update 2013 will establish for the first time a Tribal Advisory Committee. The primary aim of creating a Tribal Advisory Committee is to create a forum where Tribes can review, comment on, and help develop the content of the *California Water Plan Update 2013*. This includes but is not limited to the Strategic Plan, Resource Management Strategies, and Regional Reports.

Update 2013 will also continue and augment outreach strategies used during *Update 2009*:

1. Reach out to bring Tribes directly into *Water Plan* meetings, including the Resource Management Strategy workshops and Regional Forums
2. Respond to Tribal requests for presentations and briefings on the *Water Plan*
3. Continued representation of the Native American Heritage Commission on the *Water Plan* State Agency Steering Committee
4. Include Tribal representation on the *Water Plan* public Advisory Committee (this is further discussed in Section 4 below)

A. Role of the Tribal Advisory Committee

The *Update 2009* Tribal Communication Committee and the Tribal Water Summit Planning Team reached out to Tribes, shared information about the work of the *Water Plan*, and sought to increase Tribal participation in *Water Plan* meetings. Their work focused on how to engage Tribes.

Update 2013 will convene a Tribal Advisory Committee to focus on the content of the *Water Plan*, as well as to continue work on communication and engagement. Major areas of work will include but are not limited to the following:

1. The Tribal Advisory Committee will review, comment upon, and help to develop *Water Plan* materials. This includes but is not limited to the Strategic Plan, Resource Management Strategies, and Regional Reports. As part of this work the Tribal Advisory Committee will share information and interact as needed with the State Agency Steering Committee, Federal Agency Network, and public Advisory Committee. The intended outcome is a plan that (1) is a joint product of State, federal, Tribal, and local governments in California, (2) better describes and incorporates California's human-environmental diversity, and (3) uses information from Tribes to guide its analyses and recommendations.
2. The Tribal Advisory Committee will update the 2008 *Tribal Communication Plan* to include the new relationships formed in recent years, and to bring strategic insights from *Update 2009* and innovative ideas into the material. The work will include improving the accessibility of information and meeting venues to Tribes, revisiting the associated communication strategies and tools, and expanding the Tribal communication network.

3. Tribes that participated in the 2009 California Tribal Water Summit generated a list of 70 Recommended Actions that would help to address Tribal water issues in California. Many actions focused on the *California Water Plan*, including recommendations about the update and Tribal engagement process, and the substantive issues that will require the development of new *Water Plan* content. The Tribal Advisory Committee will help State government in implementing these recommendations.
4. The 2009 California Tribal Water Summit, “Protect Our Sacred Water,” provided an opportunity for the highest Tribal and State government officials to begin to ensure that water access, use and priorities of native California peoples are recognized in California’s strategic water planning efforts. The Tribal Advisory Committee will plan for a future Tribal Water Summit to be held before the conclusion of *Update 2013*.

B. Structure of the Tribal Advisory Committee

Participants in the *Update 2009* process, including members of the Tribal Communication Committee and Tribal Water Summit Planning Team, emphasized that Tribes are sovereign governments, and suggested that it would be appropriate to involve Tribal chairpersons and councilmembers to ensure that Tribal people were being represented by their chosen leaders.

Update 2013 proposes to convene a Tribal Advisory Committee consisting of formal representatives of California Native American Tribes and Tribal organizations as follows:

1. All federally recognized and non-federally recognized Tribes will be invited to identify a delegate and an alternate for the Tribal Advisory Committee.
 - a. Ideally a delegate and their alternate will be a Tribal chairperson or councilmember, but this is not required.
 - b. The Tribe will formally charge their delegate with commenting and making recommendations on behalf of the Tribe. An alternate’s primary responsibility will be to listen, and secondarily to make comments and recommendations on issues where they have clear direction from the Tribe.
 - c. The Tribe will provide formal documentation of their delegate and alternate, and any changes, consisting of a letter on Tribal letterhead. This information will be complete and available in a timely manner.
 - d. The SB 18 list of California Native American Tribes maintained by the California Native American Heritage Commission will serve as a supplemental source of information.
2. Tribal organizations that represent Tribal interests will be invited to identify a delegate and alternate for the Tribal Advisory Committee.
 - a. Ideally a delegate and their alternate will be an executive director or senior program manager, but this is not required.

- b. The organization will formally charge their delegate with commenting and making recommendations on behalf of the organization. An alternate's primary responsibility will be to listen, and secondarily to make comments and recommendations on issues where they have clear direction from the organization.
- c. The organization will provide formal documentation of their delegate and alternate, and any changes, consisting of a letter on the Tribal organization's letterhead. This information will be complete and available in a timely manner.
- d. The organization will provide the Tribal Advisory Committee with a copy of their Internal Revenue Service 501(c)3 or 509(a)2 letter of determination. This information will be complete and available in a timely manner.

The Tribal Advisory Committee will develop a charter and meet periodically to conduct business (approximately once every three months).

The Tribal Advisory Committee meetings will be open meetings. Tribal and other individuals that are not formal delegates will be welcome to attend the Tribal Advisory Committee meetings. (See section 4-F below, Tribal Advisory Committee Meetings are Open Meetings.)

Tribes or Tribal individuals, Tribal communities, and Tribal organizations that do not want to be involved in the work of the Tribal Advisory Committee, but want to stay informed about *Update 2013* and related Tribal engagement opportunities, are welcome to subscribe to the *Water Plan's* voluntary [Tribal Communication email listserve](#). (See Section 5 below.)

C. Composition of the Tribal Advisory Committee

All California Native American Tribes and Tribal organizations will be welcome to identify delegates. The *Water Plan* will seek to include delegates from each of its 10 hydrologic regions and two areas of special interest. These include the North Coast, San Francisco Bay, Central Coast, South Coast, Sacramento River, San Joaquin River, Tulare Lake, North Lahontan, South Lahontan, Colorado River, the Delta, and Mountain Counties.

D. Requirements for Serving as a Delegate

Delegates will play a critical role in helping to represent Tribal perspectives in the *California Water Plan*. Accordingly delegates will be required to meet the following requirements.

1. Regularly attend the Tribal Advisory Committee meetings. This includes accepting to attend at least three quarterly meetings per year. Every effort will be made to schedule the meetings well in advance and at times that work for delegates. Travel expenses for attending these meetings will be reimbursed when requested.
2. Participate in the Regional Forums in their home region (approximately three or four meetings per year). *Update 2013* will convene dialogues in each of its ten hydrologic regions and two areas of special interest. The Regional Forums will provide an important

opportunity for Tribes within each region to share information, identify common concerns and interests, coordinate activities, network, and comment on the Water Plan. Travel expenses for attending these meetings will be reimbursed when requested.

3. Commit to sharing information regularly with Tribes in their region, and to serving as a point of contact for bringing concerns from the Tribes in their area back to the Tribal Advisory Committee. Travel expenses for this activity cannot be reimbursed.

E. Interaction with the *Water Plan* State Agency Steering Committee, Federal Agency Network, and public Advisory Committee

The Tribal Advisory Committee will share information and interact as needed with the *Water Plan* State Agency Steering Committee, Federal Agency Network, and public Advisory Committee in the course of reviewing, commenting upon, and helping to develop *Water Plan* materials.

The Tribal Advisory Committee may choose to invite members of these groups and appropriate colleagues to attend specific Tribal Advisory Committee meetings to discuss particular topics.

F. Tribal Advisory Committee Meetings are Open Meetings

The Tribal Advisory Committee Meetings are open meetings. Tribal and other individuals that are not formal delegates will be welcome to attend the Tribal Advisory Committee meetings. This includes representatives of State, federal, and local government agencies. Representatives of government agencies will be asked to state their affiliation for the meeting summary.

G. Decision-Making

Like all *California Water Plan* groups, the Tribal Advisory Committee will seek consensus among its members before making decisions. In the event that unanimous agreement is not possible, the Tribal Advisory Committee will work to address concerns expressed by members, regardless of the number of members that raise a particular concern. However, if after the Tribal Advisory Committee has genuinely sought to increase mutual understanding and develop inclusive solutions, and achieves substantial but not unanimous agreement among its members, it may move forward with recommendations and other decisions on behalf of the Committee. Decisions of the Committee are just that, and not decisions of individual members. In this situation an effort will be made to fully explain remaining concerns and where appropriate potentially provide more than one set of comments or recommendations. Like all *Water Plan* groups, the Committee will not make decisions by traditional voting.

4. Tribal Representation on the *Water Plan* Public Advisory Committee

California Water Code §10004 establishes the *California Water Plan* and requires the California Department of Water Resources to update it every five years. It also requires the Department to establish a public Advisory Committee for the update process, consisting of agricultural and urban water suppliers, local government, business, production agriculture, environmental interests, and other interested parties.

Update 2013 will continue to have Tribal representation on the public Advisory Committee. *Update 2005* and *Update 2009* included two additional Tribal seats on the *Water Plan*'s public Advisory Committee. The Tribal organizations met the requirement of representing Tribal interests (not individual Tribes) that spanned the State.

If desired, the Tribal Advisory Committee could identify additional members to attend public Advisory Committee meetings in order to promote information exchange and dialogue between both Committees.

The Tribal Advisory Committee will share information and interact as needed with the public Advisory Committee (as well as the State Agency Steering Committee and Federal Agency Network) in reviewing, commenting upon, and helping to develop *Water Plan* materials.

5. Tribal Communication Email Listserve

Update 2013 will maintain a voluntary subscription listserve to distribute *Water Plan* news and meeting announcements to members and staff of California Native American Tribes. (The listserve is not a general bulletin board or discussion list.) Anyone interested is invited to subscribe by visiting the following website:

http://listhost2.water.ca.gov/mailman/listinfo/ca_water_plan_tribal_communication

For additional water-related information from the Department of Water Resources and other agencies, people are invited to subscribe to the general *Water Plan* eNews by visiting <http://www.waterplan.water.ca.gov/> and scrolling down to the News section.

6. Interagency Tribal Coordination Network

Update 2013 will establish an Interagency Tribal Coordination Network to share water resource-related information and coordinate corresponding efforts. The network will invite any interested State agencies to join, starting with those involved in *Update 2009* Tribal efforts, and welcome federal and local agency participation. The network will build upon the existing State agency Tribal liaisons. The network will meet in person approximately twice a year to plan and review its efforts, and will conduct its work through conference calls and electronic technologies.

7. Financial Support for Participation

Update 2013 will reimburse when requested the travel and associated per diem costs required for Tribal Advisory Committee members to attend committee meetings, regional dialogues, and other official *Water Plan* meetings. This is consistent with the offer that the *Water Plan* provides to all members of other standing groups.

8. Internal Staffing and Facilitation

Update 2013 will assign a staff member from within the Division of Statewide Integrated Water Management as the lead for Tribal engagement. The lead will work with DWR's Tribal Liaison, and also cultivate relationships with staff from other agencies.

As with all *Water Plan* groups, the Tribal Advisory Committee will be supported by a professional facilitator chosen by the Department of Water Resources. The Committee as a whole may also help DWR select a facilitator if it desires.